

**Court of Appeals, Division One**  
**Civil Appeal**

**1 CA-CV 11-0681**

**BUILDING, et al v. CAPITOL**

**Appellate Case Information**

Case Filed: 27-Oct-2011  
Case Closed:

**Dept/Composition**

**Side 1. BUILDING DEVELOPMENT SYSTEM, L.P., an Arizona limited partnership; LANCE HERNDON and DONNIS J. HERNDON, individually and as husband and wife; RAY PALMER; ERIC NICHOLS and DANIELLE NICHOLS, individually and as husband and wife; FREDERICK G. JAMES and MARGARET L. JAMES, individually and as husband and wife; THOMAS R. FORD and TARA-LYN FORD, individually and as husband and wife, Third-Party Plaintiff**

**(Litigant Group) BUILDING DEVELOPMENT SYSTEM**

- Building Development System LP
- Lance Herndon
- Donnis J Herndon
- Ray Palmer
- Eric Nichols
- Danielle Nichols
- Frederick G James
- Margaret L James
- Thomas R Ford
- Tara-Lyn Ford

**Attorneys: Third-Party Plaintiffs/Appellants**

Melanie G McBride, Esq. (AZ Bar No. 23348)

**Side 2. CAPITOL BANCORP, LTD., a Michigan company, Third-Party Defendant**

**(Litigant Group) CAPITOL BANCORP LTD**

- Capitol Bancorp Ltd

**Attorneys: Third-Party Defendants/Appellees**

David L Allen, Esq. (AZ Bar No. 20339)

Laura Rogal, Esq. (AZ Bar No. 25159)

**CASE STATUS**

Aug 23, 2012....Stayed

Apr 23, 2012.....At Issue

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2008-024712	Breach of Contract; See File		Larry Grant, Authoring Judge of Order		

**OPEN DUE DATE**

**Notice of Status of Federal/Bankruptcy Proceedings**

**Due By:**

Monday, January 9, 2017

*Re: \* ORDERED: continuing stay of appeal. FURTHER ORDERED: appellee to advise within 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and notice of status of bankruptcy proceedings due 01/09/2017. Barbara Vidal Vaught Pr*

**48 PROCEEDING ENTRIES**

1. 27-Oct-2011 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 09/19/11  
Bond filed in Superior Court: 9/23/11  
Docketing Statement filed in Superior Court: none
2. 27-Oct-2011 FILED: e-Record on Appeal:  
Instruments/Minute Entries  
Exhibits: none
3. 31-Oct-2011 FILED: Civil Appeals Docketing Statement; Certificate of Service; Notice of Appeal (Appellant)
4. 31-Oct-2011 FILED: Notice to Counsel re: Appellant's Fee/Brief Due
5. 3-Nov-2011 FILED: Supplemented Superior Court e-Record with Revised Index of Record

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*Information presented in this document may not reflect all case activity and is subject to change without notice.*

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6. 14-Nov-2011 RECEIPT No.: 2011-01693 ; \$280.00, Check Number: #506674, Applied to: BUILDING DEVELOPMENT SYSTEM - Appellant's Filing Fee Paid for: - By Gust Rosenfeld PLC
7. 16-Nov-2011 FILED: Appellee's Notice re: Appellee's Fee/Appellant's Brief Due
8. 28-Nov-2011 RECEIPT No.: 2011-01768 ; \$140.00, Check Number: #30713, Applied to: CAPITOL BANKCORP LTD - Appellee's Filing Fee Paid for: - By Jaburg & Wilk PC
9. 7-Dec-2011 FILED: Motion for Extension of Time to File Opening Brief; Certificate of Service (Appellant)
10. 9-Dec-2011 ORDERED: Motion for Extension of Time to File Opening Brief; (Appellant) = GRANTED/extending time for filing opening brief to/including 01/12/2012. Absent compelling circumstances, no further extension will be granted. Melina Brill ProTem Judge - Author
11. 11-Jan-2012 FILED: Appellants' Opening Brief; Certificate of Service (Appellant)
12. 20-Jan-2012 FILED: Motion for Extension of Time to File Responsive Brief (First Request, No Objection); Certificate of Service (Appellee)
13. 26-Jan-2012 ORDERED: Motion For Extension Of Time To File Responsive Brief (First Request, No Objection) (Appellee) = GRANTED/extending time for filing answering brief to/including 03/30/2012. Absent compelling circumstances, no further extension will be granted. Melina Brill ProTem Judge - Author
14. 30-Mar-2012 FILED: Appellee's Responsive (Answering) Brief; Certificate of Compliance; Certificate of Service (Appellee)
15. 2-Apr-2012 ORDERED: Clerk of Maricopa County Superior Court to transmit any portion of record on appeal unavailable in electronic format, including but not limited to reporter's transcripts and exhibits, to clerk of the Court of Appeals, Division One on or before 04/17/2012. Ruth Willingham - Author
16. 17-Apr-2012 FILED: Additional Record on Appeal:  
Exhibits: Hearing Date 1/23/12 - List and # 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 32 40 41 42 43 44 45 46 47 48 49 50 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 72 73 81 82 83 84 85 89 91 95 96 98 106 108 109 111 112 113 114 116 117 118 119 120 121 122 125 126 129 135 136 139 140 142 143 146 148 149 15 155 156 157 158 159 160 161 163 165 166 167 169 171 172 173 174 175 177 178 179 182 184 185 186 187 188 189 191 194 196 198 199 201 203 206 207 208 209 210 215 242 247 in box
17. 23-Apr-2012 FILED: Appellants' Reply Brief; Certificate of Compliance; Certificate of Service (Appellant)
18. 26-Jul-2012 CLNDR: CONFERENCE, Department A, 9-18-12, COURTROOM 1.
19. 20-Aug-2012 FILED: Third-party Defendant/Appellee Capitol Bancorp's Notice of Automatic Stay; Certificate of Service; Exhibit A (Appellee)
20. 21-Aug-2012 FILED: Memorandum, 8/21/12, removing case from 9/18/12 calendar
21. 23-Aug-2012 ORDERED: staying this appeal until further order. FURTHER ORDERED: directing the parties to advise this court promptly of any bankruptcy court order terminating the stay and further directing counsel for Appellee to file written notice with this court of the status of the bankruptcy proceedings on or before 2/22/13, in the event they stay has not been lifted by that date. FURTHER ORDERED: this appeal is removed from the 9/18/12 conference calendar of Department A. The Clerk of this court will reassign this appeal to the calendar of an available Department upon notification that the bankruptcy stay has been lifted. Hon Ann A Scott Timmer - Author
22. 22-Feb-2013 FILED: Third-PartyDefendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)
23. 26-Feb-2013 ORDERED: directing counsel for appellee to advise this court promptly of any bankruptcy court order terminating the stay and to file written notice with this court of the status of the bankruptcy proceedings on or before 6/26/13. Melina Brill ProTem Judge - Author
24. 26-Jun-2013 FILED: Third-Party Defendant/Appellee Capital Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)
25. 1-Jul-2013 ORDERED: directing counsel for third-pary defendant/appellee Capital Bancorp, LTD., to advise this court promptly of any bankruptcy court order terminating the stay and to file written notice with this court of the status of the bankruptcy proceedings on or before 1/3/14. Barbara Vidal Vaught ProTem Judge - Author

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| 26. | 3-Jan-2014  | FILED: Third Party Defendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 27. | 8-Jan-2014  | ORDERED: directing counsel for third-party defendant/appellee Capitol Bancorp, LTD., to advise this court promptly of any bankruptcy court order terminating the stay and to file written notice with this court of the status of the bankruptcy proceedings on or before 5/2/14. Melina Brill ProTem Judge - Author  |
| 28. | 2-May-2014  | FILED: Third-Party Defendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 29. | 9-May-2014  | ORDERED: directing counsel for third-party defendant/appellee Capitol Bancorp, LTD., to advise this court promptly of any bankruptcy court order terminating the stay and to file written notice with this court of the status of the bankruptcy proceedings on or before 9/5/14. Melina Brill ProTem Judge - Author  |
| 30. | 9-May-2014  | FILED: Motion to Withdraw as Counsel; Certificate of Service (Appellant)  |
| 31. | 30-May-2014 | ORDERED: Motion to Withdraw as Counsel (Appellant) = GRANTED. Melina Brill ProTem Judge - Author  |
| 32. | 5-Sep-2014  | FILED: Third-Party Defendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 33. | 8-Sep-2014  | ORDERED: directing counsel for appellee to advise this court promptly of any bankruptcy court order terminating the stay and to file written notice with this court of the status of the bankruptcy proceedings on or before 1/9/15. Melina Brill ProTem Judge - Author   |
| 34. | 9-Jan-2015  | FILED: Third-Party Defendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 35. | 12-Jan-2015 | ORDERED: continuing stay of this appeal. FURTHER ORDERED: Directing appellee to advise this court w/in 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and to file written notice with court of status of bankruptcy proceedings on/before 5/11/15. Failure to timely comply w/ this order may result in sanctions. Melina Brill ProTem Judge - Author |
| 36. | 3-Jun-2015  | FILED: Third-Party Defendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 37. | 3-Jun-2015  | ORDERED: granting extension until 6/15/15 for appellee to file written status report of bankruptcy court proceedings including advising court whether automatic stay is still in effect w/ respect to appeal Melina Brill ProTem Judge - Author   |
| 38. | 4-Jun-2015  | ORDERED: continuing stay of appeal. FURTHER ORDERED: Directing appellee to advise this court w/in 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and to file written notice w/ court of status of bankruptcy proceedings on/before 10/5/15. Melina Brill ProTem Judge - Author  |
| 39. | 20-Oct-2015 | ORDERED: (Appellee has filed to comply with this court's 6/4/15 order re: written notice of bankruptcy status) granting an extension until 10/30/15, for appellee to file a written status report of bankruptcy court proceedings, including advising this court whether automatic stay is still in effect w/ respect to this appeal. Melina Brill ProTem Judge - Author                    |
| 40. | 3-Dec-2015  | ORDERED: directing appellants to file a status report on/before 12/15/15 advising this court whether automatic stay is still in effect w/ respect to this appeal and whether any sanctions should be imposed against appellee for its failure to comply w/ this court's orders. Melina Brill ProTem Judge - Author  |
| 41. | 4-Dec-2015  | FILED: Third-Party Defendant/Appellee Capitol Bancorp's Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 42. | 28-Dec-2015 | ORDERED: Continuing the stay of this appeal FURTHER ORDERED: Directing appellee to advise court within 10 days of any bankruptcy court order terminating the stay or dismissing the bankruptcy case and to file written notice with this court of the status of the bankruptcy proceedings on or before 4/26/16. Barbara Vidal Vaught ProTem Judge - Author                                 |
| 43. | 9-May-2016  | ORDERED: granting an extension until 5/20/16, for appellee to file a written status report of bankruptcy court proceedings, including advising this court whether automatic stay is still in effect w/ respect to this appeal. Melina Brill ProTem Judge - Author   |

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| 44. | 17-May-2016 | FILED: Third-Party Defendant/Appellee Capitol Bancorp, Ltd.'s Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 45. | 18-May-2016 | ORDERED: continuing stay of this appeal. FURTHER ORDERED: directing appellee to advise court within 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and to file written notice of status on/before 7/15/16. Melina Brill ProTem Judge - Author |
| 46. | 28-Jul-2016 | ORDERED: granting an extension until 08/08/2016, for appellee to file a written status report of bankruptcy court proceedings, including advising whether automatic stay is still in effect with respect to appeal. Melina Brill ProTem Judge - Author                              |
| 47. | 8-Aug-2016  | FILED: Third-Party Defendant/Appellee Capitol Bancorp, Ltd.'s Notice of Status of Bankruptcy Proceedings; Certificate of Service (Appellee)   |
| 48. | 9-Aug-2016  | ORDERED: continuing stay of appeal. FURTHER ORDERED: appellee to advise within 10 days of any bankruptcy court order terminating stay or dismissing bankruptcy case and notice of status of bankruptcy proceedings due 01/09/2017. Barbara Vidal Vaught ProTem Judge - Author       |